

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's Own Motion into the Practices of the Southern California Edison Company to Determine the Violations of the Laws, Rules, and Regulations Governing Performance Based Ratemaking, its Monitoring and Reporting to the Commission, Refunds to Customers and other Relief, and Future Performance Based Ratemaking for this Utility.

**FILED**  
**PUBLIC UTILITIES COMMISSION**  
**June 15, 2006**  
**SAN FRANCISCO OFFICE**  
**I. 06-06-014**

**ORDER INSTITUTING INVESTIGATION INTO THE OPERATIONS**  
**OF THE SOUTHERN CALIFORNIA EDISON COMPANY**  
**PERTAINING TO PERFORMANCE BASED RATEMAKING, AND**  
**NOTICE OF OPPORTUNITY FOR HEARING**

**I. INTRODUCTION AND PURPOSE OF PROCEEDING**

On June 25, 2004, the Southern California Edison Company (SCE) submitted a written report to this Commission entitled "PBR Customer Satisfaction Investigation Report." SCE undertook its investigation in response to an anonymous employee letter alleging that SCE employees were falsifying customer satisfaction survey data. The Commission uses the survey data and results to set SCE's performance based ratemaking (PBR) rates, as the Commission authorized and directed in Decision 96-09-092, as modified by Decision 02-04-055.

SCE's report finds and discusses deliberate data falsification by some SCE employees. Primarily, SCE's report discusses how some employees in the electrical design group falsified the telephone numbers of customers to avoid surveys of unsatisfied SCE customers. SCE also states that meter readers may have failed to accurately record customer data. Customer satisfaction PBR rates depend on PBR survey results. SCE

contends that this wrongdoing may have influenced (raised) customer satisfaction PBR rates paid by SCE ratepayers from 1997 through 2003. SCE offers to refund \$14.4 million to its ratepayers. No proceeding or investigation now exists where the Commission can consider refunds or any other remedy or ratepayer relief for SCE's misconduct.

We commence this investigation to: (1) ascertain the extent to which SCE falsification or other manipulation of customer satisfaction data and survey results may have changed PBR and other results and rates, and (2) direct the appropriate refund amount and mechanism for such refund, and (3) ascertain the basic underlying reasons why the SCE data falsification and manipulation occurred and the extent and nature of SCE management's role in the falsification and manipulation, and (4) ascertain whether SCE administered, supervised, monitored and reported its customer satisfaction PBR program accurately and diligently, and (5) ascertain the level of PRB penalties the Commission should impose on SCE, and (6) ascertain whether the Commission should assess monetary penalties or other sanctions under Rule 1 and Sections 2107-2112 of the Public Utilities Code, and (7) ascertain whether SCE's PBR has created unintended costs and consequences, and if possible to quantify such costs and consequences, and (8) ascertain whether the Commission should eliminate or modify SCE's PBR to prevent further wrongdoings, further unintended and inappropriate costs, and further perverse PBR consequences, and (9) ascertain similar information (to 1-8) for SCE's other PBR programs: other customer satisfaction programs, employee health and safety, and system reliability, and (10) ascertain whether ratepayer funding for PBR programs should be eliminated or funded at reduced rates.

## **II. CONSUMER PROTECTION AND SAFETY DIVISION'S REPORT**

During the last year, the Commission's Consumer Protection and Safety Division (CPSD) conducted its own investigation of SCE's customer satisfaction data manipulation and falsification. CPSD has taken the examinations under oath of almost 40 SCE current and former employees, supervisors, managers, reviewed hundreds of

written SCE interview reports, and reviewed other evidence on its investigation and findings. CPSD has prepared a written report dated June 15, 2006.

CPSD's written report agrees with SCE's findings that data manipulation and other misconduct occurred, but CPSD's report points to a larger scale of misconduct and manipulation than SCE reported. We do not make any findings or conclusions now, but expect to do so after considering the evidence in this investigation.

We expect this proceeding to be transparent and public. The issues are public enforcement and rate issues, and involve significant ratepayer stakes. CPSD has not yet released its report publicly so that SCE may seek confidential treatment from the Commission for any portions of CPSD's report it deems confidential.

We direct SCE to provide justification to the Commission for specific, identified portions of the report for which SCE requests continued confidential treatment. SCE shall provide its justification by written motion filed by June 29, 2006 and CPSD and interested parties may provide responses by July 7, 2006. On the same dates, the parties shall provide their justification or opposition to the continued confidentiality of all supporting data used in the reports (interview notes, depositions, etc.)

### **III. SCE AND CPSD REACHED DIFFERENT FINDINGS AND CONCLUSIONS**

SCE and CPSD have made much different findings, conclusions, and recommendations. We summarize the key differences below. We direct SCE and CPSD to develop their positions in this proceeding by hearing evidence.

(1) CPSD cites evidence that the fraud and manipulation were more pervasive in scope and incidence and by effect on ratepayers than does SCE. CPSD finds that SCE's "selling the survey" and SCE's choice of customer contacts significantly and inappropriately increased SCE's customer satisfaction survey scores, and significantly increased PBR rates charged to SCE customers.

(2) CPSD cites evidence that SCE management required, encouraged, or knew of the falsification and data manipulation in some instances, and did nothing to timely prevent, punish, or report it to the Commission. CPSD also finds that for other

instances of data manipulation and falsification, sufficient information existed for management to have questioned the validity of SCE's customer satisfaction and PBR results. SCE's report neither makes such findings nor does it admit this level of management involvement.

(3) CPSD contends that SCE violated: (a) the Commission's Rule 1; (b) statutory reporting requirements; and (c) its duties of care and competence to monitor and administer the PBR program. CPSD contends that SCE violated its fair dealing and honesty, owed both to the Commission and to its ratepayers. SCE admits to no such violation of its duties in its report.

(4) CPSD contends that SCE usurped its PBR program. SCE's focus on achieving high scores without regard to the actual service provided served to defeat the PBR's goal of improving customer service. SCE's report makes no such findings.

(5) CPSD recommends significantly higher ratepayer PBR refunds and penalties (\$35.2 million) than does SCE (\$14.2 million). Also, CPSD requests Rule 1 and statutory penalties. SCE makes no such request.

(6) SCE's and CPSD's findings differ on the basic reasons why the data falsification and manipulation occurred. SCE suggests that a small group of employees and supervisors acted against company policy. CPSD's findings suggest a wider scale of misconduct. CPSD cites evidence that SCE's management expected its employees to accomplish high customer satisfaction PBR scores by any means necessary. Instead of improving customer service to earn the high scores, CPSD asserts that employees and managers used unlawful means to achieve high PBR rates.

#### **IV. FURTHER PROCEEDINGS**

This matter is important to SCE, its ratepayers, and the Commission. Significant customer refunds are at stake. Also at stake are the due care and honesty we expect of all utilities in their reporting to the Commission, and for utilities' administration of rate programs entrusted to them. For those reasons, the Commission intends to hold hearings on this matter, to provide the necessary record for redress and to prevent future events and behavior of this kind.

We invite interested parties, and the Commission's Division of Ratepayer Advocates (DRA) to actively participate in this proceeding. The proceeding involves important and basic ratemaking matters that will benefit from the expertise and participation of DRA and other parties.

We also direct CPSD and SCE to provide evidence as to the propriety and effect that "selling the survey" and choosing customer contacts may have had on survey results and customer service PBR rates. We encourage other interested parties to provide survey experts for that purpose.

We note that the scope of the customer satisfaction investigation reports of SCE and CPSD is limited primarily to customer satisfaction survey results derived from the planning group's design organization contacts with SCE customers, and meter reading. Customer satisfaction PBR is broader and affects other PBR rates. We do not possess adequate information to decide whether a refund for customer satisfaction PBR, other than planning and meter reading, is appropriate and if so, the reasonable amount of the refund. We direct SCE, CPSD, and DRA to investigate this matter and to present their reports and conclusions.

Other SCE information may aid this Commission in understanding the nature and extent of the PBR falsification and manipulation. We will require SCE to provide the Commission with that information, as directed in the ordering paragraphs.

## **V. OTHER PBR PROGRAMS**

SCE has two other PBR programs, electric system reliability and employee safety and health, about which SCE has filed reports to the Commission. SCE's electric reliability report finds no impropriety for that PBR element. SCE's employee health and safety report finds major improprieties, and offers to return to ratepayers all rewards (\$35 million) earned from 1997 through 2003. CPSD recommends that an additional \$35 million of PBR penalties be imposed on SCE for its electric reliability PBR. This assumes the maximum health and safety PBR penalties for 1997 through 2003.

We expect to use this proceeding to further examine electric system reliability and employee health and safety PBR and rates. The Commission expects to ascertain what refunds, if any, and other remedies are appropriate in these areas. The Commission will direct consideration of these matters in a phase of this proceeding to be scheduled at a later date.

## **VI. SCHEDULE**

We notify the parties that the Commission will set expedited hearings to review the PBR matters and issues raised by the reports and this investigation. The Commission intends to examine customer satisfaction PBR first, and to set a prehearing conference to consider and adopt a hearing schedule and schedule other matters for this proceeding.

## **VII. THIS PROCEEDING IS CLASSIFIED AS AN ENFORCEMENT PROCEEDING**

This proceeding has elements of both adjudicatory ratemaking. However, we classify it as an enforcement proceeding. The primary issues developed after rates were in place, and were brought to our attention first through anonymous employee letters and later the ensuing SCE and CPSD investigations.

Therefore, **IT IS ORDERED** that:

1. An investigation on the Commission's own motion is hereby instituted into the operations of SCE (Respondent) to determine:

- (a) the extent to which SCE employees may have increased PBR rates from 1997 through 2003 though data falsification and manipulation.
- (b) the appropriate refund or other relief associated with the falsification and manipulation.
- (c) other increased rates or other damages if any, wrongfully caused, and the refunds and other relief associated with such wrongdoing.
- (d) the reasons for the data falsification and manipulation.
- (e) the appropriate statutory penalties, if any, to levy against SCE for its administration of customer satisfaction PBR

and SCE's inappropriate monitoring and reporting of the PBR program.

- (f) whether the Commission should permit SCE to continue future PBRs, and if so under what conditions and PBR modifications.

2. We direct SCE and CPSD to participate actively in this proceeding. Other parties are invited to participate and contribute evidence and positions.

3. We direct SCE and CPSD to present expert evidence on the propriety and effect of selling the survey, SCE planners' choice of customer contacts to survey, and other improper survey tactics.

4. We direct the parties to investigate the total costs CPSD and its Legal Division representation have accrued because of CPSD's investigation, and to provide positions to the Commission as to whether the costs are recoverable from SCE.

5. A prehearing conference will be set as soon as practicable.

6. This order shall be deemed to contain a preliminary scoping memo under Rule 6.(c) (1).

7. By July 7, 2006, we direct SCE and CPSD to present an additional written report or reports providing the following information:

- a. SCE's justification for not refunding customer satisfaction PBR rates to customers for non-planning activities. SCE shall explain whether its management has excluded personnel working on such activities from positive (e.g. pay, promotions) and negative (e.g. criticism, poor performance reports) signals sent by management to encourage high PBR rates, and if so the reasons for the exclusion.
- b. SCE is directed to explain in detail the extent to which its non-planning employees could self-select customers, sell the survey, or use other discretion that may be reflected in PBR rates.
- c. SCE is directed to explain in detail the process and personnel involved in all non-planner customer satisfaction PBR. SCE shall explain the elements of discretion such personnel possess in their work effecting PBR. SCE shall provide the names, duties, and

responsibilities for all management personnel from 1997 through 2003, responsible for such duties

- d. SCE is directed to fully describe in detail the structure and procedure used by SCE to administer, monitor and audit all PBR programs for accuracy and fairness in PBR rates and reporting to the Commission.
- e. SCE is directed to provide the names and duties of SCE employees disciplined from 1997 through 2003, for falsifying or manipulating data used to set PBR rates. The dates refer to the time of the discipline, not to when the acts causing the discipline occurred. SCE is directed to provide the reason for the discipline and the form and extent of the disciplinary action.
- f. SCE is directed to fully explain how positive and negative incentives applied to reporting matters related to employee health and safety, and system reliability.
- g. SCE is directed to fully explain why it is reasonable to forfeit rewards but avoid penalties for customer satisfaction, associated with planning and meter reading and employee health and safety PBR.

8. The Executive Director shall cause this order to be served on the Southern California Edison Company and on the service list in Southern California Edison Company's last case.

This order is effective today.

Dated June 15, 2006 at San Francisco, California

MICHAEL R. PEEVEY  
President  
GEOFFREY F. BROWN  
DIAN M. GRUENEICH  
JOHN A. BOHN  
RACHELLE B. CHONG  
Commissioners